



PATENT  
0171-0763P

RECEIVED

OCT 21 2003

TC 1700

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: SAITO, Kazuo et al. Conf.: 2711  
Appl. No.: 09/899,107 Group: 1745  
Filed: July 6, 2001 Examiner: Alejandro, R.  
For: FUEL CELL SEPARATOR, PROCESS FOR PRODUCTION  
THEREOF, AND POLYMER ELECTROLYTE FUEL CELL

LETTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

October 17, 2003

Sir:

The Commissioner is respectfully requested to either allow this application or indicate which statutory requirements have not yet been made.

FACTS

On February 20, 2003 a non-final office action issued in this case. That office action relied on certain documents that would not be prior art if a certified translation of the priority document were filed.

On May 16, 2003 a document entitled "Reply Under 37 C.F.R. §1.111" together with a certified translation of the priority document were filed. These documents were filed in the U.S. Patent and Trademark Office's mailroom as discussed below.

On June 5, 2003 a final rejection was issued stating in part "the priority document has not been found or made of record".

(Office Action mailed June 5, 2003; page 4; line 9). Approximately three (3) weeks later, on or about June 25, 2003 a document entitled "Reply After Final Rejection Under 37 C.F.R. §1.116", copy attached as Exhibit A, was filed. Attached to Exhibit A was a postcard receipt, copy attached as Exhibit B, showing the earlier filing on May 16, 2003 of the "English Translation of Priority Document, Japanese No. 2000-204728". On June 26, 2003 an additional copy of this same certified translation was filed as shown by the listing as attached on page 3 of Exhibit A.

Exhibits A, B, and the certified translation were filed by sending them by facsimile with a cover sheet attached as Exhibit D. The cover sheet shows that Exhibits A, B, C, and D were sent to fax number 703-872-9311, the same fax number specified for after final communications and given on page 5, line 9 of the final rejection mailed June 5, 2003.

A transaction report, copy attached as Exhibit E indicates that 37 of the 38 pages were sent.

The U.S. Patent and Trademark Office received these 37 pages as shown by a document entitled "Auto-Reply Facsimile Transmission" a copy of which is attached hereto as Exhibit F.

The missing page was transmitted within a few days.

**REMARKS**

The courtesies extended to David R. Murphy by Examiner Alejandro are acknowledged with appreciation. The following comments incorporate the substance of a recent conversation between David. R. Murphy and Examiner Alejandro. Examiner Alejandro informed this office that the U.S. Patent and Trademark Office information retrieval system (PAIR) indicated that the above documents have not yet been entered by the U.S. Patent and Trademark Office. The Examiner attempted to locate the paper file but informed this office that the paper file was located in Customer Service.

The Commission is respectfully requested to transfer the file from the Customer Service division to the office of Examiner Alejandro so that the Examiner can act on this case.

**FEES**

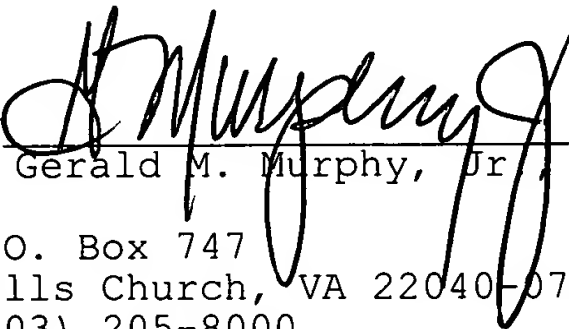
It is respectfully submitted that no fee is required by virtue of this submission. Although the final rejection mailed June 5, 2003 set a three-month shortened statutory period expiring on September 5, 2003; and even though that date is passed no action of substance is being requested by the attorneys of record in this case. This Letter only requests that earlier timely filed documents be acted upon.

However should the Commissioner determined that any fee is required by virtue of the filing of this letter he is respectfully authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,


BIRCH, STEWART, KOLASCH & BIRCH, LLP

By



Gerald M. Murphy, Jr. #28,977

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

  
GMM/DRM/jeb  
0171-0763P

(Rev. 09/30/03)